

EXPLANATION OF COMMISSION DETERMINATIONS ON ADEQUACY

in

Sugar from the European Union, Inv. No. 104-TAA-7 (Review)
Sugar from Belgium, France, and Germany, Inv. Nos. AA1921-198-200 (Review)
Sugar and Syrups from Canada, Inv. No. 731-TA-3 (Review)

On January 7, 1999, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission, in consultation with the Department of Commerce, grouped these reviews because they involve similar domestic like products. *See* 19 U.S.C. § 1675(c)(5)(D); 63 *Fed. Reg.* 29372, 29374 (May 29, 1998).

***Sugar and Syrups from Canada*, Inv. No. 731-TA-3 (Review)**

With regard to *Sugars and Syrups from Canada*, Inv. No. 731-TA-3 (Review), the Commission determined that both domestic and respondent interested party group responses were adequate and voted to conduct a full review. Regarding domestic interested parties, the Commission received responses from two associations whose members account for most U.S. production of refined sugar. Regarding respondent interested parties, the Commission received a response from a Canadian producer that accounts for nearly all subject imports.

***Sugar from the European Union*, Inv. No. 104-TAA-7 (Review)**

With regard to *Sugar from the European Union*, Inv. No. 104-TAA-7 (Review), the Commission determined that the domestic interested party group response was adequate.^{1 2}

¹ Commissioner Crawford concurs in finding that the domestic interested party group response was adequate. However, the Commission received no individual responses from growers or processors, who are producers of the domestic like product. Therefore, she finds that individual responses from growers and processors were inadequate.

² Commissioner Askey dissenting. Although Commissioner Askey concurred in the decision to conduct a full review, she determined that the domestic interested party group response was inadequate because those who responded represent only the refining portion of the domestic industry. The domestic like product in the original case was sugar, both raw and refined. The Commission received no response from the representatives of beet or sugar cane growers or from the sugar cane processors who had been involved in the original case. Commissioner Askey recognizes that the United States Beet Sugar Association appears to include two growers' cooperatives, but she finds that the association responded in its capacity as a processing organization, not as a representative of growers, based on the like product information provided in the filing. *See Pressure Sensitive Plastic Tape from Italy*, Inv. No. AA1921-167 (Review) (3M Corporation's response considered a response from a member of the domestic

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Although the two associations that responded to the notice do not include sugar growers and processors, the Commission found that the associations represent a sufficiently large portion of U.S. production of the domestic like product defined in the original investigation to be considered adequate. Because no respondent interested party responded to the notice of institution, the Commission determined that the respondent interested party group response was inadequate. The Commission further determined to conduct a full review, however, because conducting a full review would promote administrative efficiency in light of the Commission's decision to conduct a full review with respect to *Sugar and Syrups from Canada*, and because of the significant domestic like product and domestic industry issues presented by this review.³ See 63 Fed. Reg. 30599, 30604 (June 5, 1998). Commissioner Crawford dissented from the Commission's decision to conduct a full review.

Commissioner Crawford voted to conduct expedited reviews in this investigation and in *Sugar from Belgium, France, and Germany*. Commissioner Crawford determined that circumstances warrant conducting an expedited review because (1) there is only one review in which adequate responses justifying a full review were received, while inadequate responses were received in all of the other four reviews, and (2) in the Belgium, France and Germany reviews no member of the domestic industry, *i.e.*, growers and processors, responded; in the European Union review integral members of the domestic industry, *i.e.*, growers and processors, did not respond; and no foreign interested parties responded in any of the four reviews. As a result, domestic growers, domestic processors and foreign firms, none of whom showed sufficient interest in these orders, would be investigated by the Commission if full reviews of these four orders are conducted. For these reasons, Commissioner Crawford determined that conducting expedited reviews of the four orders is warranted.

Sugar from Belgium, France, and Germany, Inv. Nos. AA1921-198-200 (Review)

With regard to *Sugar from Belgium, France, and Germany, Inv. Nos. AA1921-198-200 (Review)*, the Commission determined that the domestic interested party group response was

² (...continued)

industry because presented in that guise despite 3M's apparent status as a respondent interested party in the same case).

³ Commissioner Askey concurring in the result. Commissioner Askey notes that the Uruguay Round Agreements Act permits, but does not require, Commissioners to expedite reviews when interested party responses are inadequate. 19 U.S.C. § 1675(c)(3)(B). Despite her finding of inadequacy, Commissioner Askey voted to conduct a full investigation because she believes conducting simultaneous investigations in *Sugar from the European Union* and *Sugar and Syrups from Canada* will be administratively efficient due to the overlap in domestic like product in the two cases.

inadequate.⁴ Although the Commission received a response to the notice of institution from associations representing domestic producers of refined cane sugar and beet sugar, it received no responses from domestic producers of the like product defined in the original investigations (sugar cane and raw cane sugar). Because no respondent interested party responded to the notice of institution, the Commission determined that the respondent interested party group response was inadequate. The Commission further determined to conduct full reviews, however, because conducting full reviews would promote administrative efficiency in light of the Commission's decision to conduct a full review with respect to *Sugar and Syrups from Canada*, and because of the significant domestic like product and domestic industry issues presented by these reviews. Commissioners Crawford and Askey dissented from the Commission's decision to conduct full reviews.

For the same reasons stated above, Commissioner Crawford determined that conducting expedited reviews of these three orders is warranted. Commissioner Askey determined that the differences in like product are such that conducting full reviews would not be administratively efficient.

A record of the Commissioners' votes is available from the Office of the Secretary and at the Commission's web site.

⁴ Chairman Bragg dissenting. In Chairman Bragg's view, the "significant domestic like product and domestic industry issues" (63 *Fed. Reg.* 30599, 30604) presented by these reviews prevent her from concluding that the domestic group response is adequate with regard to one product but inadequate with regard to another. Indeed, in a full review on the merits the Commission might determine that the two like products are actually one.